

REMARKS

Claims 1, 5-10, 12-15, 17-24 remain in the case, of which claims 18-24 have been withdrawn from consideration. Claim 25 is new and finds support in the specification as filed, for example in paragraphs [0031]-[0034].

Claim 1 and 17 have been amended in view of the Office Action and to better define what the Applicants consider their invention, as fully supported by an enabling disclosure.

Reconsideration in view of the following remarks and entry of the foregoing amendments are respectfully requested.

CLAIM REJECTIONS UNDER 35 USC § 112

Applicants acknowledge that the previous claim rejection under 35 U.S.C. 112, first paragraph, for failing to comply with the enablement requirement has been overcome and therefore withdrawn.

Claims 1, 5-10 and 12-15 and 17 are newly rejected under 35 U.S.C. 112, first paragraph as allegedly failing to comply with the written description requirement.

More specifically, the Examiner alleges that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Action page 3.

In an effort to further the prosecution and secure prompt allowance, claim 1 has been amended to specify that the gel matrix comprises about 37 to about 45% w/w ethoxydiglycol, as supported by the specification as filed, for example in

paragraphs [0031]-[0034]. More specifically, the example of a specific composition disclosed in the application shows that a percentage of 37.4% w/w ethoxydiglycol (37.4 g in 100 g, i.e. about 37% w/w) in a mixture also comprising, among other elements, about 15% w/w Aculyn and demineralised water, allows to obtain a viscosity comprised between about 35 and about 55 centipoises (CPS).

Applicants respectfully submit that in view of the specific example of composition presented in the specification as filed, in view of the originally disclosed ranges of 32-45% or 34-45% w/w ethoxydiglycol in the specification as filed and in view of the additional evidence provided by way of a declaration under 37 CFR 1.132 with Applicants response dated October 30, 2007, it is clear that (1) the instantly defined range of "about 37 to about 45% w/w ethoxydiglycol" is adequately supported in the specification as filed and that (2) the inventor(s) had possession of the instantly claimed invention at the time the application was filed.

In addition, in view of the Examiner's comments on the *In re Wertheim's* decision (541 F.2d 257, 191 USPQ 90 (CCPA 1976)), it appears that in the present case, the lower endpoint of the instantly claimed range (about 37% w/w ethoxydiglycol) reasonably finds support in the originally filed disclosure, where the value of 37.4% w/w is disclosed in a specific example. The upper endpoint of the claimed range (about 45% w/w ethoxydiglycol) has been disclosed, contemplated and claimed since the present application was filed.

In view of the foregoing, Applicants submit that claim 1 as amended and new claim 25 are adequately supported by the specification as filed and that the inventor(s) were in possession of the claimed invention at the time the application was filed.

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In view of the above and foregoing, Applicants respectfully request that the Examiner reconsider and withdraw his rejection under 35 U.S.C 112, first paragraph.

The rejections of the previous claims are believed to have been overcome by the present remarks and claim amendments. From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such an action is earnestly solicited.

Respectfully submitted,
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